

## Remarks

### I. Introduction

This is in response to the Office Action dated December 10, 2007. The Office Action rejected claims 1, 10, 19, 20, and 32 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,996,406 (Lecton). The Office Action also rejected claims 2, 5-6, 8, 11, 14-15, 17, 22, 25-26, 28, 33, 36-37, 39, and 40 under 35 U.S.C. §103(a) as being unpatentable over Lecton in view of U.S. Patent No. 6,477,363 (Ayoub). The Office Action also rejected claims 9, 18, 29, and 41 under 35 U.S.C. §103(a) as being unpatentable over Lecton in view of U.S. Patent No. 6,647,267 (Britt). The Office Action also rejected claims 7, 16, 27, and 38 under 35 U.S.C. §103(a) as being unpatentable over Lecton in view of U.S. Patent No. 6,725,049 (Williams). The Office Action also rejected claims 30, 31, and 42 under 35 U.S.C. §103(a) as being unpatentable over Lecton in view of U.S. Patent No. 6,054,928 (Lemelson).

In response, Applicants have amended claims 1, 10, 19, and 32. Claims 3-4, 12-13, 23-24, and 34-35 were previously canceled. Claims 1, 2, 5-11, 14-22, 25-33, and 36-42 remain for consideration. In response to the finality of the Office Action, Applicants are submitting herewith a Request for Continued Examination.

### II. Rejections under 35 U.S.C. §102

Claims 1, 10, 19, 20 and 32 were rejected under 35 U.S.C. §102(e) as being anticipated by Lecton. In order for a claim to be anticipated under 35 U.S.C. §102, **each and every** limitation of the claim must be found either expressly or inherently in a single prior art reference. PIN/NIP, Inc. v. Platte Chem. Co., 304 F.3d 1235, 1243 (Fed. Cir. 2002). In the present case, Lecton does not show each and every limitation of claims 1, 10, 19, 20 and 32 under 35 U.S.C. §102(e). Therefore, Applicants request the withdrawal of the rejections under 35 U.S.C. §102(e).

One embodiment of the present invention is directed to determining the location of a mobile communication device and then linking metadata representing the determined mobile communications device location and call related data to audio stream data sent from the mobile communications device for a wireless communications call using a call record associated with the wireless communications call. In particular, the metadata is included as out-of-band information associated with the audio stream data. In this technique, a separate physical/logical channel may be provided to carry the data. The two data streams (audio and metadata) can be linked or associated with each other using a unique identifier such as a call record. (Specification, page 5, lines 16-20; page 11, lines 10-15).

Independent claim 1 reflects the above described aspects of the present invention. In particular, independent claim 1 as amended claims the limitation of:

means for linking metadata representing the determined mobile communications device location and call related data, to audio stream data sent from that mobile communications device for a wireless communications call using a call record associated with said wireless communications call, wherein said metadata is carried out of band on a channel separate from said audio stream data.

Lecture does not disclose these limitations of independent claim 1, and therefore cannot anticipate claim 1 under the strict anticipation standard of §102.

Lecture is directed to a personal radio service (PRS) device configured to engage in private, short-range two-way voice communications with another PRS device in range of the PRS device. The PRS device can include a GPS receiver disposed in the PRS device and a radio frequency (RF) transceiver. The RF transceiver can be configured both to modulate and transmit voice communications and positioning data received from the GPS receiver, and also to demodulate voice communications and positioning data received from other PRS devices in range of the PRS device.

Lecture does not disclose the claimed limitations. In particular, Lecture does not disclose linking metadata representing a determined mobile communications device location and call related data, to audio stream data, wherein the metadata is carried out of band on a channel separate from the audio stream data, as claimed in amended, independent claim 1.

Lecture discloses "a personal radio services (PRS) apparatus uniquely combined with a GPS system so as to provide location based data both to the user of the PRS apparatus and to a companion party communicatively linked to the PRS apparatus in a two-way voice communications session." (Lecture, col. 2, lines 25-33). Lecture states, in col. 3, lines 40-41, that the modulating step can include "encoding the positioning data in an identification tone". Thus, Lecture discloses its positioning data being encoded in Lecture's identification tone. Lecture does not disclose metadata being carried out of band on a channel separate from the audio stream data, as claimed in amended claim 1.

Thus, Lecture is unable to anticipate claim 1 under §102. As a result, for the reasons discussed above, independent claim 1 is allowable over the cited art. For similar reasons, independent claims 10, 19, and 32 are also allowable over the cited art.

Claims 2-6, 8, 11-15, 17, 22-26, 28, 33-37, 39 and 40 are dependent upon an allowable independent claim and are therefore also allowable.

### III. No New Matter Has Been Added

The amendments to claims 1, 10, 19, and 32 do not add new matter. Support for the claim amendments are shown throughout the Specification and at least at page 5, lines 16-20 and page 11, lines 10-15 of the Specification.

IV. Conclusion

For the reasons discussed above, all pending claims are allowable over the cited art. Reconsideration and allowance of all claims is respectfully requested.

Respectfully submitted,



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